



Appeal Decision

Site visit made on 24 January 2023

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2023

Appeal Ref: APP/C5690/D/22/3308803

194 Malpas Road, Lewisham, London SE4 1DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr T Frankau against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/22/127121, dated 9 June 2022, was refused by notice dated 28 July 2022.
 - The development proposed is described as a loft conversion including raising the ridge height to match No. 196 as well as raising the parapet wall on the boundary adjoining to No. 192. Rear L shaped dormer and three roof lights to the front slope to provide additional residential accommodation in the form of 2 bedrooms and an en-suite. Rear infill extension measuring 913mm deep incorporating internal alterations and new rear bi-folding door and roof lights.
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Decision

1. The appeal is allowed and planning permission is granted for a loft conversion including raising the ridge height to match No. 196 as well as raising the parapet wall on the boundary adjoining to No. 192. Rear L shaped dormer and three roof lights to the front slope to provide additional residential accommodation in the form of 2 bedrooms and an en-suite. Rear infill extension measuring 913mm deep incorporating internal alterations and new rear bi-folding door and roof lights at 194 Malpas Road, Lewisham, London SE4 1DH in accordance with the terms of the application, Ref DC/22/127121, dated 9 June 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be begun within three years of the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 22-009-03 REV P4; 22-009-04 REV P2; 22-009-05 REV P4 and 22-009-06 REV P1.
 - 3) The materials used in development hereby permitted shall match those of the existing dwelling unless details are submitted to, and approved in writing by, the Local Authority.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal property is a two storey mid-terrace dwellinghouse. Surrounding buildings have a similar style and scale. There is a gentle change in levels along this side of the road and buildings within the terrace block step up intermittently. This results in some dwellings sitting slightly higher than their attached neighbour to accommodate the change in levels.
4. The proposed development would enlarge the existing infill extension and would incorporate the raising of the roof ridge and eaves. Additionally, a rear L-shaped roof extension would also be proposed.
5. The raising of both the ridge and eaves would match the adjoining neighbour 196 Malpas Road, this would ensure the pitch of the roof would also match this neighbour. The drawings show that the parapet wall shared with 192 Malpas Road would be altered to match no 196. Given the change in levels and existing stepping up of dwellings along Malpas Road, these elements of the proposal would respect the roof form of the original building and the wider street scene.
6. The rear roof extension would be visible from vantage points in Nursery Close and adjoining land. It would span the whole width of the principal roof, be tile clad, and would also project a considerable distance over the outrigger. I also note the roof extension would not be higher than the existing ridgeline and the projection above the outrigger would be stepped down in height and set in from the rear wall of the outrigger.
7. During my site visit, I observed similar rear roof extensions at neighbouring dwellings, however, it has not been clearly shown when these were approved or whether they needed planning permission. Nonetheless, some of these overly dominate the roofscape and in this case, the presence of harm elsewhere would not justify further harm.
8. Despite this, the impact upon the rear roof elevation from this appeal proposal would be similar to what could be constructed under the General Permitted Development Order, Schedule 2, Part 1, Class B (the GPDO). The Council acknowledge this in their delegated report and the appellant has provided evidence of a similar scheme which was found to be acceptable under Class B of the order.
9. Consequently, the appellant could construct a similar rear roof L shaped dormer window extension which would have the appearance of the appeal development, under the GPDO. While the ridge, parapet and eaves would not be altered under the fallback position, this is not central to the harm I have identified. This therefore creates a viable fallback position which is a material consideration.
10. The Courts have held that in considering the concept of a fall-back development, as a material consideration, there should be a "real prospect" of it being implemented and not just a theoretical possibility that the development might take place. In this regard, the appellant has taken clear steps to show

that such a rear roof alteration could be achieved within the remit of the GPDO and there is no clear evidence to support a conclusion that the fallback scheme would not be implemented if the appeal was dismissed.

11. I am therefore satisfied that there is a real prospect of the fallback development taking place and I attach substantial weight to this consideration.
12. In conclusion, I have found some conflict with Policy 15 of the Lewisham Core Strategy 2011; Policies 30 and Policy 31 of the Development Management Local Plan 2014 and the Council's Alterations and Extensions Supplementary Planning Document 2019. However, I have found that the appeal before me would be no more harmful than the fallback permission. This is a material consideration which balances the conflict with the development plan and the Framework, justifying a grant of planning permission for the proposal. Consequently, I conclude that the appeal should be allowed.

Conditions

13. I have attached conditions on the time limit for development and plans in the interests of certainty. The materials condition is also necessary to ensure that the development is in keeping with the character and appearance of the area.

Conclusion

14. For the above reasons, having regard to the development plan as a whole, the approach in the Framework and all other relevant considerations, the appeal is allowed.

N Praine

INSPECTOR